
SENATE BILL No. 488

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-2; IC 32-15-6.1.

Synopsis: Fee for collections by attorney general. Permits the attorney general to collect reasonable attorney's fees in a collection action and creates the attorney general litigation costs fund to receive the attorney's fees. Establishes procedures for legal actions that involve state liens or other encumbrances on real property.

Effective: July 1, 2003.

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January 21, 2003, read first time and referred to Committee on Judiciary.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 488

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-6-2-6.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]: **Sec. 6.5. (a) If the attorney general institutes a proceeding**
4 **to collect money owed to the state by any person under section 6 of**
5 **this chapter, the attorney general may seek reasonable attorney's**
6 **fees to defray the cost of the collection proceeding.**
7 **(b) Attorney's fees collected under subsection (a) shall be**
8 **deposited in the attorney general litigation costs fund established**
9 **by section 6.7 of this chapter.**
10 SECTION 2. IC 4-6-2-6.7 IS ADDED TO THE INDIANA CODE
11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 2003]: **Sec. 6.7. (a) The attorney general litigation costs fund is**
13 **established to defray the costs of litigation, including trial court,**
14 **appellate, and administrative litigation. The fund shall be**
15 **administered by the attorney general. The fund consists of money**
16 **deposited in the fund under section 6.5 of this chapter.**
17 **(b) The expense of administering the fund shall be paid from**



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money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The money in the fund is continually appropriated by this section to the attorney general to defray the costs of litigation.

SECTION 3. IC 32-15-6.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 6.1. Actions Involving State Liens

Sec. 1. If:

(1) the state has a lien or other encumbrance on real property; and

(2) an action is brought concerning a lien or other encumbrance on the real property that has greater priority than the state's lien or encumbrance, including:

(A) an action:

(i) involving foreclosure of the prior lien or encumbrance; or

(ii) that otherwise affects the lien or encumbrance of the state; or

(B) an action brought to foreclose the equity of redemption of the real property after a sale for unpaid taxes or another municipal lien;

the lien or encumbrance of the state and its priority may be considered in the action and decided by the court.

Sec. 2. (a) In an action described in section 1 of this chapter, notice shall be sent to the state that contains the following:

(1) The names of the parties.

(2) A description of the lien or encumbrance of the state.

(3) The date by which the state must answer. However, the time in which the state is required to answer must be the same as the time allowed for defendants who receive personal service in Indiana to file answers.

(4) If the lien or encumbrance is for an inheritance tax, the following, if known:

(A) The name of the decedent.

(B) The date of the individual's death.

(C) The state and county in which the individual resided on the date of death.

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- 1 (D) The names and addresses of:
 2 (i) the decedent's personal representatives; or
 3 (ii) if personal representatives have not been appointed,
 4 the decedent's heirs at law.
- 5 (5) If the lien or encumbrance involves:
 6 (A) unpaid corporate taxes; or
 7 (B) interest, costs, or penalties imposed on unpaid
 8 corporate taxes;
 9 the name of the corporation that is required to pay the
 10 corporate taxes.
- 11 (b) The plaintiff, the plaintiff's attorney, or the court clerk shall
 12 issue the notice.
- 13 (c) If the lien or encumbrance of the state is for:
 14 (1) a tax payable to the state or for any other right or claim of
 15 the state, the notice shall be served on the attorney general;
 16 and
 17 (2) a recognizance entered into or a criminal conviction
 18 entered in a county in Indiana, the notice shall be served on
 19 the prosecuting attorney of the county in which the
 20 recognizance was entered into or the criminal conviction was
 21 entered.
- 22 (d) The notice must be accompanied by a copy of the complaint.
- 23 Sec. 3. (a) The state is not required to answer the notice
 24 described in section 2 of this chapter or the complaint attached to
 25 the notice.
- 26 (b) If the state fails to answer a notice described in section 2 of
 27 this chapter or the complaint attached to the notice, the failure
 28 may not be considered:
 29 (1) a waiver of any rights the state may have at law;
 30 (2) grounds for a default judgment against the state; or
 31 (3) grounds for summary judgment or any other dispositive
 32 judgment that otherwise extinguishes the state's lien or
 33 encumbrance.
- 34 Sec. 4. (a) If the state answers a notice described in section 2 of
 35 this chapter or otherwise appears before the court in the case:
 36 (1) the action shall proceed as in other cases; and
 37 (2) a judgment in the case binds the state, and the lien or other
 38 encumbrance of the state may be released in the same manner
 39 as if the judgment had been entered against an individual.
- 40 (b) If the state does not answer the notice described in section 2
 41 of this chapter or the complaint attached to the notice or does not
 42 otherwise appear before the court in the case:

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1 (1) the action shall proceed as in other cases; and
2 (2) the lien or other encumbrance of the state identified in the
3 complaint shall be:

4 (A) explicitly recognized in its proper priority in any order
5 of the court that affects the lien or other encumbrance of
6 the state; and

7 (B) paid out of any surplus remaining after liens or other
8 encumbrances that are superior to the lien or
9 encumbrance of the state are paid.

10 (c) In an action to foreclose the equity of redemption under a
11 sale for taxes or another municipal lien or in an action involving
12 strict foreclosure, a judgment may be entered that extinguishes a
13 lien or other encumbrance of the state on the real property
14 described in the complaint if:

15 (1) the state does not answer;

16 (2) a disclaimer is filed by the state; or

17 (3) the court determines that any part of the lien for the taxes
18 or other municipal lien that is foreclosed is superior to the lien
19 or encumbrance of the state.

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